



THE CITY OF NEW YORK
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October 24, 2023

VIA ECF

The Honorable Andrew L. Carter, Jr.
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Paul Phillips, et. al. v. The City of New York, et. al., 21 Civ. 8149
(ALC)(SLC)

Your Honor:

I am a Senior Counsel in the office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing defendant City of New York in the above referenced matter. I write jointly with plaintiffs' counsel to provide the Court the required status report.

On September 8, 2023, plaintiffs filed their Third Amended Complaint. The parties have since engaged in discussions as to whether certain of the new claims, as well as certain of the existing claims, could be moved to state court. Unfortunately, given issues presented by certain of the new claims, particularly the plaintiff Phillips' medical malpractice claim, and statute of limitations issues related thereto, the City has come to the conclusion that transfer to state court is not possible at this time.

Thus, the City will be providing service information for the individual defendants to plaintiffs' counsel. Given the number of individual defendants, the City respectfully requests until December 22, 2023 to file defendants' responses to the Third Amended Complaint, assuming timely service of the individual defendants, to which plaintiffs consent. Plaintiffs respectfully request until January 22, 2024, to file a motion to strike defendants' motion to dismiss, to which the City consents.

The only representation issue that the City sees at this point in time is that the doctors and medical personnel newly added as defendants by the plaintiff Phillips would be represented by this Office in a limited scope for the purposes of the motion to dismiss, which

would include the statute of limitations argument. Should the motion to dismiss be denied, outside counsel would likely be retained to defend these defendants going forward.

Additionally, in the Third Amended Complaint, plaintiffs' counsel mistakenly named John Pirando as John Doe No. 1. Defendants have no objection to plaintiffs correcting that error to name Det. Michael Prilook instead. Plaintiffs will correct this error by October 31, 2023, and file a corrected Third Amended Complaint by that date.

Should the Court deem it beneficial, the parties are of course available for a conference with the Court.

Thank you for your consideration herein.

Respectfully submitted,

/s/ Mark D. Zuckerman
Mark D. Zuckerman

cc: All counsel (via ECF)